

BOARD OF APPEALS CASE NO. 5328

BEFORE THE

APPLICANT: Mr. & Mrs. David Horn

ZONING HEARING EXAMINER

REQUEST: Variance to allow an addition within the required front and side yard setbacks; 404 Amy Drive, Abingdon

OF HARFORD COUNTY

HEARING DATE: April 7, 2003

Hearing Advertised

Aegis: 2/26/03 & 3/5/03

Record: 2/28/03 & 3/7/03

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Mr. and Mrs. David Horn, are requesting a variance, pursuant to Section 267-36B, Table VI, and Section 267-23C(1)(a)(2) of the Harford County Code, to allow an addition within the required 25-foot front yard setback and 10-foot side yard setback (18-foot front and 8.5-foot side proposed) and within the 22-foot front yard setback for a porch (18 foot proposed) in an R3/Urban Residential District.

The subject parcel is located at 404 Amy Drive, Abingdon, MD 21009, and is more particularly identified on Tax Map 56, Grid 3F, Parcel 535, Lot 106. The parcel consists of 0.40 acres, is zoned R3/Urban Residential and is entirely within the First Election District.

Mr. Jeffrey Hoilman appeared on behalf of the Applicant and indicated that he has been contracted to construct the proposed addition. The witness referred to a rendering of the proposed home after completion of the proposed addition marked as Applicant's Exhibit 1. The existing home was built in 1985 and was the subject of a variance request to the Board of Appeals in Case No. 3248. At that time, Ryland Homes petitioned the Board to allow a variance relative to an existing home that was mis-located on the parcel. The house was mistakenly located within the 25 foot front yard setback and at the time the encroachment was discovered, the house had been 95% complete. The Hearing Examiner granted the request, finding that a hardship would result if the variance were denied because the house was 95% complete and the owner was scheduled to move into the house but settlement was delayed during the pendency of the Board of Appeals proceeding which forced he and his family into temporary, rented space.

The Hearing Examiner determined in Case No. 3248, that the houses were not uniformly placed along Amy Drive so that this minor encroachment would not look out of place. In the opinion of the Hearing Examiner, approval of the request did not adversely impact adjoining dwellings or property values and recommended approval. The Board of Appeals adopted the decision of the Hearing Examiner in Case No. 3248.

According to Hoilman, the addition will add a master bedroom suite, basement storage and will extend the porch. The existing house is 46 feet by 32 feet and the new construction will add a 30 foot by 20 foot side addition. Hoilman indicated the parcel is unique in that it has angular side lot lines and the original house was misplaced. The front yard setback is requested in order to maintain a uniform appearance of the front of the house and be able to extend the roofline in an aesthetically pleasing manner.

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. The Department has recommended approval of the request. McClune indicated that the addition as proposed would be compatible with other homes in the neighborhood. He pointed out several other homes in the immediate area that have added similar additions to their existing homes (Attachment 6). Using an average side yard method the actual encroachment averages only 1.1 feet which the Department finds minimal and one without adverse impacts to adjoining property owners. If the addition were moved back to accommodate the front yard setback, the addition would further reduce the side yard setback due to the angulations of lot lines. There is sloping on this lot front to rear where a floodplain exists, and this topography, coupled with the placement of the home and angular lot line configuration is, in the Department's expert opinion, a unique topographical circumstance justifying the grant of the request. Mr. McClune also pointed out that there is more than adequate distance between the proposed addition and the adjoining home on Lot 107 to conclude that the purposes of the setback provisions of the Code will not be impaired by a grant of the request.

There were no persons that appeared in opposition to the request.

CONCLUSION

The Applicants, Mr. and Mrs. David Horn, are requesting a variance, pursuant to Section 267-36B, Table VI, and Section 267-23C(1)(a)(2) of the Harford County Code, to allow an addition within the required 25-foot front yard setback and 10-foot side yard setback (18-foot front and 8.5-foot side proposed) and within the 22-foot front yard setback for a porch (18 foot proposed) in an R3/Urban Residential District.

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

Section 267-23C(1)(a)(2) provides:

"Exceptions and modifications to minimum yard requirements.

- (1) Encroachment.
 - (a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:
 - [2] Bay windows, balconies, chimneys or porches: three (3) feet."

The Hearing Examiner concludes that the subject parcel is unique. There are angular lot lines, an existing floodplain, sloping topography and a misplacement of the original house that contribute to the unique circumstances of this parcel. The addition is similar to others already existing in the immediate neighborhood and will have no adverse impacts associated with its construction as related to adjoining parcels. Because the setback encroachment is very minor and there are adequate distances between this addition and the adjoining home on Lot 107, the purposes of the Code in providing adequate separation between homes and lots is satisfied.

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The Hearing Examiner recommends approval of the request, subject to the Applicant obtaining any and all necessary permits and inspections.

Date

May 5, 2003

William F. Casey
William F. Casey
Zoning Hearing Examiner